

National Aeronautics and Space Administration  
**Headquarters**  
Washington, DC 20546-001



December 11, 2018

Reply to Attn of:

Office of the General Counsel

Emma Best  
MuckRock News  
DEPT MR 62549  
411A Highland Avenue  
Somerville, MA 02144-2516  
62549-21321478@requests.muckrock.com

Re: FOIA 19-GSFC-F-00043

Dear Ms. Best:

By letter dated November 16, 2018, and received on November 26, 2018, you appealed the integrity of the search conducted by the NASA FOIA Office in the above-captioned matter. This letter is NASA's final determination of your appeal.

#### BACKGROUND

On October 18, 2018, you submitted a request seeking records "mentioning or generated as a result of liaisons and contacts between CIA officials and the following NASA personnel:

BARDON, Jan – Goddard Space Flight Center – 1975 – Info on secretary positions

VAUGN, George – NASA, Goddard Space Flight Center – 1969 – Info on EDP positions

FERNANDEZ, Hazel

These personnel were identified in a declassified CIA document from 1975 identifying various interagency liaisons. Your request sought records from the beginning of 1970 through the end of 1979. The initial determination determined that no such records were located. You appealed the integrity of the search.

#### DETERMINATION ON APPEAL

Your appeal has been reviewed and processed pursuant to applicable statutes, including the FOIA, 5 U.S.C. § 552 and NASA's FOIA regulations, 14 CFR Part 1206. The process involved an examination of your original request, all related correspondence, the initial

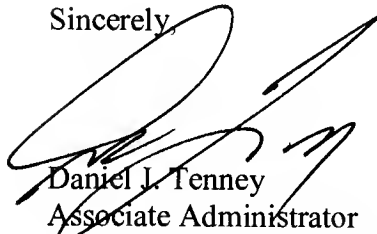
determination, and your appeal. I have determined that the search conducted by the NASA FOIA Office was reasonable and affirm the initial determination.

#### DISCUSSION

Your request seeks NASA records relating to potential CIA contacts with three NASA employees between 1970 and 1979. That is, the newest records responsive to your request were created forty years ago. A search was conducted by the GSFC Archivist in coordination with the NASA History Office. As stated in the initial determination, no records associated with any of the three names was located. I find, given the age of the records sought, that a search of the archives was reasonably calculated to locate any responsive records and affirm the initial determination.

For your information, the Office of Government Information Services (OGIS) offers mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 301-837-1996; toll free at 1-877-684-6448; or facsimile at 301-837-0348.

Sincerely,



Daniel J. Tenney  
Associate Administrator  
Mission Support Directorate  
Attachment

**Freedom of Information Act, Section 552(a)(4), as amended**

**(I)**

if the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee; or

**(II)**

for any request described in clause (ii) (II) or (III) of this subparagraph for the first two hours of search time or for the first one hundred pages of duplication.

**(v)**

No agency may require advance payment of any fee unless the requester has previously failed to pay fees in a timely fashion, or the agency has determined that the fee will exceed \$250.

**(vi)**

Nothing in this subparagraph shall supersede fees chargeable under a statute specifically providing for setting the level of fees for particular types of records.

**(vii)**

In any action by a requester regarding the waiver of fees under this section, the court shall determine the matter de novo: *Provided*, That the court's review of the matter shall be limited to the record before the agency.

**(viii)**

An agency shall not assess search fees (or in the case of a requester described under clause (ii)(II), duplication fees) under this subparagraph if the agency fails to comply with any time limit under paragraph (6), if no unusual or exceptional circumstances (as those terms are defined for purposes of paragraphs (6)(B) and (C), respectively) apply to the processing of the request.

**(B)**

On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo, and may examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b) of this section, and the burden is on the agency to sustain its action. In addition to any other matters to which a court accords substantial weight, a court shall accord substantial weight to an affidavit of an agency concerning the agency's determination as to technical feasibility under paragraph (2)(C) and subsection (b) and reproducibility under paragraph (3)(B).

**(C)**

Notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to any complaint made under this subsection within thirty days after service upon the defendant of the pleading in which such complaint is made, unless the court otherwise directs for good cause shown.

**[(D)]**

Repealed. Pub. L. 98-620, title IV, § 402(2), Nov. 8, 1984, 98 Stat. 3357.]

**(E)**

**(i)**

The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed.

**(ii)** For purposes of this subparagraph, a complainant has substantially prevailed if the complainant has obtained relief through either—

**Freedom of Information Act, Section 552(a)(4), as amended**

**(I)**

a judicial order, or an enforceable written agreement or consent decree; or

**(II)**

a voluntary or unilateral change in position by the agency, if the complainant's claim is not insubstantial.

**(F)**

**(I)**

Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding, the Special Counsel shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding. The Special Counsel, after investigation and consideration of the evidence submitted, shall submit his findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Special Counsel recommends.

**(ii)** The Attorney General shall—

**(I)**

notify the Special Counsel of each civil action described under the first sentence of clause (I); and

**(II)**

annually submit a report to Congress on the number of such civil actions in the preceding year.

**(iii)**

The Special Counsel shall annually submit a report to Congress on the actions taken by the Special Counsel under clause (I).

**(G)**

In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member.